

REMARKS

In response to the non-final office action of January 26, 2005, applicant asks that all claims be allowed in view of the following remarks. Claims 31-34, 36-43 and 45-48 are pending, of which claims 31 and 40 are independent claims.

**Claim Amendments Submitted on October 18, 2004 with Request for Continued Examination Not Addressed by Office Action**

Applicant respectfully notes that claim amendments and remarks were filed on October 18, 2004 in response to the final Office action of July 19, 2004. Applicant further notes that the response with claim amendments was filed concurrently with a Request for Continued Examination and payment of the necessary fee. The non-final Office action of January 26, 2005 indicates that the action is responsive to applicant's communication filed on October 18, 2004. However, the Office action does not address the amendment to the independent claims.

More particularly, the final Office action of July 19, 2004 rejected independent claims 31 and 40 under 35 U.S.C. § 112, second paragraph because the independent claims recited, inter alia, "accessing a policy file that reflects a state associated with the policy file." See Office action of July 19, 2004 at page 2, lines 14-16. The final Office action asserted that the limitation was "indefinite as to whether the applicant means the state, condition of the policy as evidenced in the specification Page 5 lines 19-29, or the state, the country associated with the policy as evidenced in the specification Page 10 lines 13-18." See Office action of July 19, 2004 at page 2, lines 17-20. The final Office action further stated that "[t]o expedite a complete examination of the instant application definition that the office will take is that state refers to the country associated with the policy." See Office action of July 19, 2004 at page 2, lines 21-22.

In response, applicant amended the independent claim 31 to recite (with changes marked):

accessing a policy file that reflects a state associated with a condition of the policy file and that includes an attribute portion configured to store one or more cryptographic policy attributes and a value portion having one or more attribute values, each attribute value corresponding to a cryptographic policy attribute and indicating whether an application program may use the cryptographic policy represented by the cryptographic policy attribute.

In other words, applicant amended independent claim 31 to more clearly recite "a condition of the policy file." Notably, applicant did not amend the independent claim 31 to recite a country

of the policy file, which was the definition of state used in the rejection of the final Office action of July 19, 2004. See Office action of July 19, 2004 at page 2, lines 21-22. Applicant also amended independent claim 40 to recite “a condition of the policy file.”

However, the pending rejection fails to address this added claim language. In fact, the pending Office action of January 26, 2005 uses the same text in rejecting amended claims 31 and 40 (each of which recites “a condition of the policy file”) as the text in the final Office action of July 19, 2004 used in unamended rejecting claims 31 and 40 (each of which recited “a state associated with the policy file” and each of which were rejected on the basis that state refers to the country associated with the policy, as noted previously). Compare Office action of January 26, 2005 at page 3, line 14 to page 4, line 7 with Office action of July 19, 2004 at page 3, line 11 to page 4, line 4. Notably, the pending Office action retains the text of the final Office action of July 19, 2004 that refers to “a state associated with the policy,” which was deleted by the amendment. See Office action of January 26, 2005 at page 3, line 13. And, while the pending Office action continues to reference the text deleted by amendment filed October 18, 2004, the Office action does not refer to the term “a condition of” added by amendment filed October 18, 2004.

Applicant respectfully requests examination of the amendments previously made to claims 31 and 40 on October 18, 2004, to which the pending Office action is purportedly responsive.

To be complete in this response to the January 26, 2005 Office action, the following remarks emphasize some of the points of distinction between the amended claims and the applied references.

### **Rejection of Claims 31, 38-40, 47 and 48 Under Section 103**

Claims 31, 38-40, 47 and 48 have been rejected under 35 U.S.C. § 103 as being unpatentable over Klemba (U.S. Patent No. 5,651,068) in view of the Microsoft Press Computer Dictionary, Third Edition, Microsoft Press, 1997 (hereinafter, Dictionary). With respect to claim 31 and its dependent claims 38 and 39, applicant requests reconsideration and withdrawal of this rejection because Klemba, Dictionary and the proper combination of the references fail to describe or suggest a policy file that controls the cryptographic functions of an application program and reflects a condition of the policy file.

**a. Applicant's Response to Office Action's Response to Arguments**

The Office action's statement that "[a]pplicant argued that Klemba fails to disclose controlling cryptographic functions of an application program by accessing a policy file" mischaracterizes applicant's argument. See Office action of January 26, 2005 at page 2, lines 10-11. Rather, applicant requested in the response filed October 18, 2004, and continues to request here, reconsideration and withdrawal of the rejection because Klemba fails to describe or suggest a policy file that controls the cryptographic functions of an application program and reflects a condition of the policy file. See e.g., Response of October 18, 2004 at page 6, lines 15-17 and page 7, lines 26-27.

The Office action states that Dictionary teaches a definition of a file. See Office action of January 26, 2005 at page 2, lines 11-14. However, Dictionary does not cure Klemba's failure to describe or suggest a policy that controls the cryptographic functions of an application program and reflects a condition of the policy file. Nor does the Office action contend that Dictionary includes the features that applicant has pointed out are missing from Klemba.

**b. Reproduction of Applicant's Arguments Previously Presented in October 18, 2004 Response**

For convenient reference, the following is a reproduction of arguments presented in the October 18, 2004 response to the July 19, 2004 Office action.

Claims 31, 38-40, 47 and 48 have been rejected under 35 U.S.C. § 103 as being unpatentable over Klemba (U.S. Patent No. 5,651,068). With respect to claim 31 and its dependent claims 38 and 39, applicant requests reconsideration and withdrawal of this rejection because Klemba fails to describe or suggest a policy file that controls the cryptographic functions of an application program and reflects a condition of the policy file.

Claim 31 is directed to a method for controlling cryptographic functions of an application program. The method includes accessing a policy file used for controlling cryptographic functions of an application program. The policy file reflects a condition of the policy file. The policy file includes an attribute portion configured to store one or more cryptographic policy attributes, each of which represents a cryptographic function. The policy file also includes a value portion having one or more attribute values. Each attribute value corresponds to a cryptographic policy attribute and indicates whether an application program may use the

cryptographic policy represented by the cryptographic policy attribute. The method also includes selectively retrieving at least one of encryption information and decryption information from the policy file, selectively processing the retrieved encryption information and decryption information from the policy file in accordance with a predetermined capability condition, and providing at least one of allowable encryption levels and decryption levels to the application program.

In contrast, Klemba, through the use of a hardware device (specifically, a national flag card or NFC), controls the cryptographic functions of the cryptographic engine. At the outset, applicant notes that Klemba fails to disclose controlling cryptographic functions of an application program by accessing a policy file. Notably, the Office action recognizes Klemba's failure to disclose this aspect. See Office action of July 19, 2004 at page 4, lines 5-6 (stating "Klemba does not expressly disclose that the [cryptographic] policy is a file"). However, the Office action dismisses the import of Klemba's failings in this regard, contending that it would have been obvious "to describe the policy in the NFC [or National Flag Card] of Klemba as the claimed policy file." Applicant disagrees, and requests support for the position that it would be obvious to describe Klemba's cryptographic policy in a hardware device as a policy file.

Additionally, applicant notes that Klemba fails to disclose a policy file that controls the cryptographic functions of an application program and reflects a condition of the policy file. The underscored portion of the previous sentence represents a limitation added by this amendment [the amendment of October 18, 2004], which was naturally not addressed by the Office action [of July 19, 2004]. Nevertheless, the following is provided to make clear Klemba's shortcomings with regard to this limitation. Klemba's cryptographic policy information reflects a country, as noted in the Office Action [of July 19, 2004]. See Office action of July 19, 2004 at page 3, lines 9-10 in combination with page 2, lines 21-22; Klemba at col. 6, line 20 in combination with col. 7, lines 19-24. As such, Klemba's cryptographic policy reflects a state (that is, a country) that is associated with the cryptographic policy on a NFC (or National Flag Card) used to control cryptographic functions of the cryptographic engine. Thus, Klemba's cryptographic policy does not reflect a condition of the policy file, as recited in amended claim 31.

Accordingly, Klemba fails to describe or suggest a policy file that controls the cryptographic functions of an application program and reflects a condition of the policy file, as recited in claim 31. For at least these reasons, applicant requests reconsideration and withdrawal of the rejection of claim 31. At least for their dependency on claim 31, applicant requests reconsideration and withdrawal of the rejection of claims 38 and 39.

Independent claim 40 is directed to an apparatus having the elements described above with respect to claim 31. For the reasons described above with respect to claim 31, Klemba does not describe or suggest a policy file that controls the cryptographic functions of an application program and reflects a condition of the policy file, as recited in claim 40.

Therefore, for at least these reasons, applicant requests reconsideration and withdrawal of the rejection of independent claim 40 and claims 47 and 48 that depend, directly or indirectly, from claim 40.

#### **Rejection of Claims 32, 33, 41 and 42 Under Section 103**

Claims 32, 33, 41 and 42 have been rejected 35 U.S.C. § 103 as being unpatentable over Klemba in further view of Anderl (WO 87/07063). Applicant respectfully traverses the rejection because Anderl does not cure the failure of Klemba to describe or suggest a policy file that controls the cryptographic functions of an application program and reflects a condition of the policy file, as recited in claims 31 and 40 on which claims 32, 33, 41 and 42 depend, respectively.

#### Reproduction of Applicant's Arguments Previously Presented in October 18, 2004 Response

For convenient reference, the following is a reproduction of arguments presented in the October 18, 2004 response to the July 19, 2004 Office action.

Anderl discloses a smart cart capable of storing multiple files. See Anderl at page 1, lines 5-8 and page 2, lines 19-29. Anderl does not disclose or suggest a policy file that controls the cryptographic functions of an application program and reflects a condition of the policy file. Thus, Anderl cannot cure Klemba's failure to describe or suggest the subject matter of amended independent claims 31 or 40, as described above.

At least for the reasons discussed above and their dependency on claims 31 and 40, respectively, applicant requests reconsideration and withdrawal of the rejection of claims 32, 33, 41 and 42.

### **Rejection of Claims 36, 37, and 45-48 Under Section 103**

Claims 36, 37, and 45-48 have been rejected 35 U.S.C. § 103 as being unpatentable over Klemba and Dictionary in further view of Schneider in Applied Cryptography. Applicant respectfully traverses the rejection because Schneider does not cure the failure of Klemba or Dictionary to describe or suggest a policy file that controls the cryptographic functions of an application program and reflects a condition of the policy file, as recited in claims 31 and 40 on which claims 36, 37 and 45-48 depend, respectively.

#### Reproduction of Applicant's Arguments Previously Presented in October 18, 2004 Response

For convenient reference, the following is a reproduction of arguments presented in the October 18, 2004 response to the July 19, 2004 Office action.

Schneier discloses digital signatures and the use of digital signatures. See Bruce Schneier, Applied Cryptography, John Wiley & Sons, Inc., 1996. As such, Schneier cannot overcome Klemba's failure to describe or suggest a policy file that controls the cryptographic functions of an application program and reflects a condition of the policy file. Thus, Schneier cannot cure Klemba's failure to describe or suggest the subject matter of amended independent claims 31 or 40, as described above.

At least for the reasons discussed above and their dependency on claims 31 or 40, respectively, applicant requests reconsideration and withdrawal of the rejection of claims 36, 37, and 45-48.

### **Conclusion**

As noted previously, claim amendments submitted on October 18, 2004 with a Request for Continued Examination were not addressed by the present Office action. As such, this response does not raise any new issues meriting final rejection. For at least the reasons noted above, applicant asks that all claims be allowed.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this reply should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this reply, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

No fee is believed due. Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

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